Supreme Court, U.S.
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UNITED STATES SUPREME COURT

October Term, 1999

LOUIS F. GAINES, 99-1422
Plaintiff-Petitioner 99-2111

v.

WHITE RIVER ENVIRONMENTAL PARTNERSHIP, Et Al,
Defendants-Respondent

IN THE MATTER OF: 99-3899
LOUIS F. GAINES 99-4048

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT:

Judges Easterbrook, Rovner & Wood

Louis F. Gaines, Pro Se-Petitioner
5337 North College Avenue
Indianapolis, IN 46220-3141
317--283-4821

70 pp

I. QUESTIONS FOR REVIEW

1. With regards to interlocutory relief, the United States Court of Appeals, for the Seventh Circuit, maintains a "Tradition" that denies "All" motions for a preliminary injunction - if the moving party, most likely a member of a "Protected Class," is involved in a suit relating to equal employment opportunity. Should this "Tradition" be declared "Unconstitutional?" If not, then does the "Harmful Error?" rule apply?

2. While being engaged in "Protected Activity," the Defendants force the assignment of the Plaintiff to their most dangerous work area: Solids Handling, and the Plaintiff was made to suffer an on-the-job, "Irreparable Injury." What relief is the Plaintiff due, with regards to motions to amend his "Complaint," motions for discovery, fair judicial procedure, and the Defendants' Motion for Summary Judgment?

3. If, after the Seventh Court "Affirmed" the District Court's denial of Plaintiff's motions for a preliminary injunction against the Defendants, as one effort to defend himself against their continued act of "Retaliation," - the Defendants renewed their "Retaliation" against the Plaintiff; then what relief is the Plaintiff due, especially since the lower courts have denied all due relief?

4. Should the Plaintiff's petitions for a Writ of Mandamus been granted?

II. PARTIES AND PARENT COMPANIES

A. See caption

B. Parent Companies:

1. The White River Environmental Partnership is composed of IWC, 52% of the ownership; United Water Services, 43%, and Suez Lyonnaise des Eaux, with 5%. Based on the foregoing, the IWC is the "Managing Partner."

2. NIPSCO is the parent company of IWC, and United Water Resources and "Lyonnaise" have joint owership of United Water Services; and, "Lyonnaise" also hold 33% of United Water Resources' stock. In January, 2000, the stockholders voted to allow "Lyonnaise" to acquire full owership of United Water Recources.

3. The main office for IWC is located in Indianapolis, IN. The main office for United Water Services and "Lyonnaise" is located in Harrington Park, NJ.

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UNITED STATES SUPREME COURT

October Term, 1999

LOUIS F. GAINES,
Plaintiff-Petitioner

99-1422
99-2111

v.

WHITE RIVER ENVIRONMENTAL PARTNERSHIP, Et Al,
Defendants-Respondent

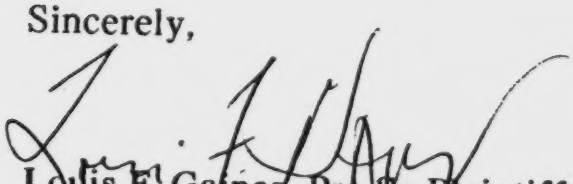
IN THE MATTER OF:
LOUIS F. GAINES

99-3899
99-4048

PETITION FOR A WRIT OF CERTIORARI

This matter comes to the United States Superme Court in "Good Faith."

Sincerely,



Louis F. Gaines, Pro Se Plaintiff
5337 North College Avenue
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VI. CITATION OF ENTRIES & ORDERS

A. Orders of the Seventh Court:

1. February 16, 1999; Plaintiff's case continues within the District Court (99-1305).

2. April 8, 1999; Plaintiff and Appellant are ordered to filed a "Jurisdictional Memorandum by April 15, 1999 (99-1723).

3. April 19, 1999; Plaintiff required to show reason why appeal should not be dismissed (99-1422).

4. April 23, 1999; Plaintiff case proceeds within the District Court (99-1305).

5. May 10, 1999; "Order" for Plaintiff to "Show Cause" is suspended pending timely filing of Appellant's brief (99-1422).

6. May 11, 1999; Court "Consolidated" the Plaintiff's appeals (99-1422 & 99-2111.)

7. May 19, 1999; appeal dismissed for lack of jurisdiction (99-1723).

8. June 7, 1999; parties ordered to file a "Jurisdictional Memorandum" by June 17, 1999 (99-2376).

9. June 21, 1999; Plaintiff's motion to

consider additional information is denied (99-1422 & 2111).

10. August 13, 1999; Plaintiff's appeal is dismissed due to a lack of jurisdiction (99-2376).

11. August 13, 1999; Seventh Court limits appeal to District Court' denial of Plaintiff's motions for first and second preliminary injunctions (99-1422 & 99-2211).

12. January 3, 2000; Seventh Court "Affirms" entries of District that denied Plaintiff's motions for preliminary injunctions (99-1422 & 99-2111). Plaintiff's petitions for Writ of Mandamus also denied (99-3899 & 99-4048).

13. January 28, 2000; Seventh Court denies Plaintiff's petition for a rehearing in (99-1422, 99-2111, 99-3899 & 99-4048).

B. Entries of the District Court (IP 98-1741-C-M/S):

1. January 8, 1999; entry on Local Rule 6.1, and date for pretrial conference meeting.

2. January 22, 1999; Court denied Plaintiff's motions for default judgment, and affidavit of bias or prejudice judge.

3. February 1, 1999; parties attended

pretrial conference. Plaintiff appeared Pro Se; the Defendants represented by counsel.

4. February 3, 1999; parties directed to complete discovery by May 3, 1999; dispositive motion by May 17, 1999.

5. February 4, 1999; Plaintiff ordered to tender a proposed preliminary injunction by February 10; the Defendants given through March 16, 1999 to respond.

6. February 11, 1999; Court denied the first motion for a preliminary injunction due to some confusion over the word, "Tender."

7. Februry 23, 1999; Court gives Plaintiff direction to file another motion for a preliminary injunction by March 11, 1999; Defendants' time to reply will be determined later.

8. March 9, 1999; Court responds to the Defendants' motion to strike.

9. March 11, 1999; the Court now directed the Plaintiff to supplement second motion for a preliminary injunction by March 24, 1999; Defendants given through April 20, 1999 to reply.

10. April 5, 1999; Court directed Plaintiff to submit medical statement by April 6, 1999, and discovery records to Defendants by April 9, 1999; Defendants not required to submit any

records to the Plaintiff at this time.

11. April 19, 1999; Court claimed that Plaintiff failed to supplement motion for preliminary injunction as directed. Plaintiff given through April 28, 1999 to respond.

12. April 21, 1999; Court denied the Plaintiff's motion to terminate deposition.

13. April 26, 1999; Court denied the Plaintiff's second motion for a preliminary injunction. Plaintiff did not have the medical records that the Court requested.

14. April 28, 1999; Court denied the Plaintiff's motion to prevent Defendants from producing falsified or fraudulent records.

15. April 5, 1999; Court denied the Plaintiff's motion for equal discovery rights, and order the continued deposition of Plaintiff.

16. May 7, 1999; Court denied Plaintiff's motion for freedom from retaliation, and motion for Court to acknowledge Defendants' perjury.

17. May 11, 1999; Court rules on Plaintiff's motion for discovery clarification, and clarified "Entry" for April 28, 1999.

18. May 13, 1999; Court denied Plaintiff's motion for discovery clarification.

19. May 14, 1999; Court grant agreed motion for time enlargement for filing Summary Judgment Motion.

20. May 17, 1999; Court denied Plaintiff's "Notice to Court."

21. May 26, 1999; Court directed parties to attend a pretrail conference on June 14, 1999. The Defendants given option to bring records. The Plaintiff still trying to engage in meaningful discovery.

22. June 7, 1999; the Court granted the Defendants' motion for time enlargement to file a Summary Judgment against the Plaintiff.

23. June 7, 1999; Court denied Plaintiff's second motion for Court to acknowledge the Defendants' perjury, and Plaintiff is directed to supplement motion to amend "Complaint."

24. June 14, 1999; parties appeared for pretrial conference. Plaintiff appeared Pro Se.

25. July 2, 1999; Court grants Defendants' motion for time enlargement to file Summary Judgment Motion, to July 7, 1999.

26. July 9, 1999; Court granted another motion for Defendant to file Summary Judgment by July 9, 1999.

27. August 19, 1999; Court denied the

Plaintiff's second motion to amend "Complaint." Plaintiff also given through August 30, 1999 to respond.

28. October 25, 1999; Court denied the Plaintiff third motion to amend "Complaint.

27. April 3, 2000; Court denied Plaintiff's third motion for a preliminary injunction, which was filed June 7, 1999. Other motions were also denied, as submitted by the Plaintiff. The focus is on the Defendants' Summary Judgment Motion. Further instructions will follow.

VII. JURISDICTION

A. The United States Supreme Court is requested to review the following "Orders:"

1. January 3, 2000, for 99-1422 & 99-2111; the Seventh Court "Affirmed" the District Court's denial of the Plaintiff's motions for a preliminary injunction aginst the Defendants.

2. January 28, 2000; for 99-3899 & 99-4048, which relates to the denial of Plaintiff's

B. The Supreme Court's authority to review this case is base on Title 28, U.S.C., Sections 1254 and 1292(e).

VIII. U.S. CONSTITUTION & OTHER LAW

A. Title 28, U.S.C., Section 1292:

(a) Except as provided in subsections (c) and (d) of this section, the courts of appeals shall have jurisdition of appeals from:

(1) Interlocutory orders of the district courts of the United States, ..., granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions, except where a direct review may be had in the Supreme Court.

...

(b) When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the untimate termination of the litigation, he shall so state in writing in such order. The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: Provided, however, That application for an appeal

hereunder shall not stay proceedings in the district court unless the district judge or the Court of appeals or a judge thereof shall so order.

(c) The United States Court of Appeals for the Federal Cirsuit shall have exclusive jurisdiction --

(1) of an appeal from an interlocutory order or decree described in subsection (a) or (b) of this section in any case over which the court would have jurisdiction of an appeal under section 1295 of this title; and

(2) of an appeal from a judgment in a civil action for patent infringement which would otherwise be appealable to the United States Court of Appeals for the Federal Circuit and is final except for an accounting.

...

(e) The Supreme Cour may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d).

VIII U.S. LAW CONTINUED

1. Article IV, Section 2(1): The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

2. Amendment V: No person shall be held to answer for a capital, or otherwise infamous crime, ..., nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

3. Amendment VIII: Excssive bail shall not required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

4. Amendment XIII, Section 1: Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

5. Amendment XIV, Section 1: ... No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of the law; nor deny to any person within its jurisdiction the equal protection of the laws.

6. Title 28, U.S.C., Section 144, Bias or Prejudice of Judge: Whenever a party to any proceeding in district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein but another shall be assigned to hear such proceedings.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

7. Title 42, U.S.C., Section 1981(a): All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pain, penalties, taxes, licenses, and exactions of every kind, and to no other.

8. Federal Rules of Civil Procedure:

a. Rule 9(b): Fraud, Mistake, Condition of

the Mind: In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

b. Rule 9(g): Special Damage. When items of special damage are claimed, they shall be specifically stated

c. Rule 65(d): Form and Scope of Injunction or Restraining Order. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

d. Rule 65(e): Employer and Employee; Interpleader;Constitkutional Cases. These rules do not modify any statue of the United States relating to temporary restraining orders and preliminary injunctions in actions affecting employer and employee; or the provisions of Title 28, U.S.C., Section 2361, relating to preliminary injunctions in actions of interpleader or in the nature of interpleader; or Title 28, U.S.C., Section 2284, relating to actions required

by Act of Congress to be heard and determined by district court of three judges.

9. Federal Rules of Evidence:

a. Rule 405(b) Specific Instances of Conduct. In cases in which character or trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

b. Rule 406: Habit; Routine Practice: Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization of a particular occasions was in conformity with the habit or routine practice.

IX. STATEMENT OF THE CASE

A. The Defendants:

1. On January 30, 1994, the City of Indianapolis, Indiana, hired the Defendants to manage and operate Belmont and Southport Advanced Wastewater Treatment Plants.

2. The Defendants also hired the Plaintiff, a Black man, 49 years old at the time; as an "Operation Specialist," which is a management

or professional position, which is directly under the position of shift supervisor, and which has authority over Union personnel

3. In June, 1995, the Defendants began to openly speak against "Harassment" within their work force. See "Complaint," Page 4.

4. Also in June, 1995, the Defendants allowed a "White" employee to verbally attack the Plaintiff through the use of E-mail. The Plaintiff filed a complaint, but the Defendants continued to fail to find any policy violation. See "Complaint," Pages 4 & 5.

5. In 1996, the Defendants attempted to force all "Operation Specialists" into the Union, with a reduction in pay; and, the Plaintiff opposed. At this time about 85% of the "Operation Specialists" were between the ages of 40 and 70. See "Complaint," Page 5.

6. In 1997, the Defendants continued to single-out the "Operation Specialist," among other management and professional personnel, by requiring all 14 to rebid for their jobs for continued employment. About 30% were forced into the Union (4/14). Here, the Plaintiff was given a letter of reprimand for sending a business related letter to more than five employees, which was designed to act in the best interest of all. See "Complaint, " Page 6.

7. In 1998, the Defendants met with the

Plaintiff, concerning his work related complaints of equal employment opportunity. This meeting was hostile to the Plaintif: the Defendants made false statements to the Plaintiff, mocked him; found nothing wrong, and then prevented the Plaintiff from appealing to the Managing Partner, in direct violation of the policy. See "Complaint," Pages 11-13.

8. In 1999, effective February 1, the Defendants continued the single-out the "Operation Specialists," to include the Plaintiff; by making them work, by policy, a minimum of 28 days in their most dangerous, most infectious, and most polluted work area: Solids Handling, performing Union work at the lowest skill level. See Appendix, Page 53.

B. The Plaintiff:

1. Between the period of March 18, 1998, and December 18, 1998; the Plaintiff filed four charged with EEOC.

2. On December 18, 1998, a complaint was timely filed with the District, where the Defendants were changed with unlawful Age, Race, and Sex Discrimination; Retaliation, and other civil rights violations. See "Complaint," Page 3, and Docket Sheet, Item 1.

3. The "Complaint' was brought on the authority of Title 28, U.S.C., Sections 1331 & 1343(a); Title 29, U.S.C., Sections 626(c) &

626(e); Title 42, U.S.C., Sections 1391(b), 1981, 1981.a., 1983, and 2000e-5.

4. Given the Defendants prior conduct, the Plaintiff saw the mandatory assignment to Solids Handling as another act of "Retaliation," and filed the first of three motions for a preliminary injunction on February 4, 1999. See Docket Sheet, Item 28.

5. The second motion for a preliminary injunction was filed on March 16, 1999. See Docket Sheet, Item 54.

6. As a direct result of mandatory assignment to the Defendants most dangerous, most infectious, and most polluted work area: Solids Handling - the Plaintiff, on June 2, 1999, received an on-the-job, "Irreparable Injury," when he walked into a ceiling pipe, while wearing all assigned safety protection, and suffered a sprang neck, and some hearing loss.

7. On June 7, 1999, the Plaintiff filed a third motion for a preliminary injunction against the Defendants, to attempt to prevent further injury, and to protect himself from additional "Retaliation." See medical records in the Appendix, Pages 55-60.

C. The District Court:

1. On January 22, 1999, denied Plaintiff's affidavit and motion of Bias or Prejudice Judge,

which was filed on January 20, 1999. See Docket Sheet, Items 16, 19 & 20.

2. The first motion for a preliminary injunction was denied on February 11, 1999, over some confusion of the word "Tender." See Docket Sheet, Item 38.

3. The second motion for a preliminary injunction was denied on April 26, 1999, on the claim that the Plaintiff had filed to supplement the above motion with certain medical records, which the Plaintiff did not possess at the time. See Docket Sheet, Item 80.

D. The Seventh Court:

1. On February 4, the Plaintiff appealed the District Court's "Entries" for January 8, 1999; and January 22, 1999, which related to the Plaintffff's "Affidavit of Bias or Prejudice Judge. See Docket Sheet, Items 7, 12, & 14-22.

2. On February 16, 1999, the Seventh Court , in 99-1305, required the Plaintiff to file a "Jurisdictionalal Memorandum" by February 26, 1999, which was done by the Plaintiff. On April 23, 1999, however, the Seventh Court dismissed the action on the claim that it lacked jurisdiction, with regards to Paragraph 4.a., above.

3. On February 22, 1999, the Plaintiff appealed the denial of his first motion for a preliminry injunction against the Defendants,

which were entered on February 4, 1999, and February 11, 199. See Docket Sheet, Item 24.

4. On February 24, 1999, the above appealed, Paragraph 4.c., was docketed under 99-1422. In its "Order" of April 19, 99-1422, the Seventh Court directed the Plaintiff to explain, within fourteen days, why a timely "Appllant's Brief" had not been received. The Plaintiff timely replied on April 28, 1999. As of April 28, 1999, the Seventh Court still had not ruled on the Plaintiff's first motion for a preliminary injunction, which was appealed on February 22, 1999.

5. On May 3, 1999, the Plaintiff appealed the District Court's denial of the second motion for a preliminary injunction. See Docket Sheet, Item 84.

6. On May 10, 1999, in 99-1422, the Seventh Court directed the parties to file briefs: the Plaintiff's by June 9, 1999, and the Defendants by July 9, 1999.

7. On May 11, 1999, in 99-1422 & 99-2111?; the Court indicated that the Plaintiff's second motion for a preliminary injunction is appealable, but the others might not; therefore, the parties were asked to file another "Jurisdictional Memorandum" by May 25, 1999.

8. As a direct result of mandatory assignment to the Defendants' most dangerous,

most infectious, and most polluted work area: Solids Handling, on June 2, 1999 - the following took place:

a. While still being a Management or Professional employee, an "Operation Specialist," the Plaintiff's mandatory assighment began in Solids Handling. The Plaintiff's trainer was a Union employee.

b. At the time of this mandatory assignment to Solids Handling, the Plaintiff was engaged in "Protected Activity." See Docket Sheets.

c. The Plaintiff, at all time prior to June 2, 1999, was never physically assigned to Solids Handling - before.

d. While being in the presence of his trainer, while being exposed to a relatively high concentration of Hydrogen Sulfide and Ammonia, while being in a dimly lit basement, with poor ventilation, and while wearing all assigned safety protection - the Plaintiff became less alert, and walked into a ceiling pipe at a moderate rate. Shortly afterwards, the Plaintiff almost walked into another pipe that would have hit him in his face. See the "Plaintiff's Motion To Consider Additional Information, 99-1422 & 99-2111; and the supporting "Affidvit," which was filed with the Seventh Court on June 10, 1999.

e. On June 3, 1999, the Plaintiff went to his family doctor, to be treated for an irritated throat, and a sprang or stiff neck. See the above "Affidavit," Pages 18-20.

9. In its "Order" of June 21, 1999, 99-1422 & 99-2111, the Seventh Court wrote:

> Upon consideration of Plaintiff's Motion To Consider Additional Information, filed on June 10, 1999, by the pro se appellant, It Is Ordered that the motion is Denied without prejudice to renewal in the district court.

10. On August 13, 1999, in 99-1422 & 99-2211; the Seventh Court "Order" that the appeal be limited to the denial of the Plaintiff's first and second motions for injunctive relief.

11. On November 5, 1999, IP 98-1741-C-M/S; 99-1422 & 99-2211, the Plaintiff's "Petition For A Writ Of was docketed in the Seventh Court on November 10, 1999, under 99-3899.

a. Pages 39-48 show that the Plaintiff has suffered an "Irreparable Injury!" This injury was suffered while being made to work in Solids Handling on June 2, 1999.

b. On Page 12 of this document, as cited above, the following is found:

> 2. Like every Citizen of the United States - the Petitioner is also entitled to receive 'Due Process & Equal Protection Of The Law.'

12. On November 23, 1999, in IP 98-1741-C-M/S; 99-1422, 99-2211 & 99-3899, the Plaintiff fild a second "Petition For A Writ Of Mandamus; and was docketed on December 1, 1999, under 99-4048.

13. On January 3, 2000, in 99-1422 & 99-2111, 99-3899 & 99-4048 - the Seventh Court revealed the following:

a. Interlocutory relief, such as a preliminary injunction, has never been granted by the Seventh Court - in a case that involves employment discrimination. See Page 4.

b. The rulings of the District Court that denied the Plaintiff's two motions for a preliminary injunction against the Defendants were, therefore, "Affirmed." See Page 5.

c. The Seventh Court also denied the Plaintiff's two "Petitions For Writ Of Mandamus, in 99-3899 & 99-4048.

14. On January 28, 2000, in 99-1422, 99-2111, 99-3899 & 99-4048; the Seventh Court denied the Plaintiff's request for a rehearing.

15. On or about January 25, 2000, the Defendants began to accuse the Plaintiff of a policy violation; and, when the Plaintiff asked to see the "Policy," or any "Policy Reminder" - the Defendants refused to produce the document, and continued to maintain that the Plaintiff had violated one of their policies. See the PLAINTIFF's AFFIDAVIT IN SUPPORT OF THE "Plaintiff's Third Motion To Correct Harmful Errors," AND FOR ALL DUE RELIEF, Page 13.

16. On April 3, 2000, the District Court used the above rulings of the Seventh Court to deny the Plaintiff's third motion for a preliminary injunction, which was filed on 7. 1999. The District Court also did the following:

a. Denied that the Defendants continue to "Retaliate" against the Plaintiff. The Court said in part: "7. ... The expansion of the action, to include the plaintiff's claims of retaliation at this point is not warranted."

b. Denied all motions that would help the Plaintiff to obtain a fair judicial procedure, and removed material from the record, which was favorable to the Plaintiff..

c. After denying all possible relief to the Plaintiff, the District Court then wrote: "12. The defendants' motion for summary judgment is the only motion which remains pending at this point."

17. On February 22, 1999, and May 3, 1999, the matter came to the Seventh Court on the authority of Title 28, U.S.C., Sections 144, 1291 & 1292; and, Title 42, U.S.C., Section 1981, for example.

18. This action follows.

X. ARGUMENT

Summary: The United States Court of Appeals for the Seventh Circuit is maintaining a "Harmful" and/or "Unconstitutional" Tradition against the Citizens of a "Protected Class," which includes the Plaintiff; and, this Tradition cannot be allowed to stand! The Seventh Court also denied Plaintiff's two Writs of Mandamus in harmful error. At the level of the District Court, the Plaintiff has been, and continues to be, denied the right to a fair judicial procedure, which includes the right to amend, and the right to engage in meaningful discovery; and, as a direct act of the Defendants' "Retaliation," the Plaintiff has been made to suffer an on-the-job "Irreparable Injury." Summary Judgment Motion of Defendants has been inappropriately filed!

Seventh Court's Unconstitutional Tradition And /Or Harmful Errors

A. Standard:

1. The United States Constitution: Article IV, Section 2(1); the Fifth, Eighth, Thirteenth, and Fourteenth Amendments; Title 28, U.S.C., Sections 144, 1291, 1292; Title 29, U.S.C, Sections 623(a) & 623(d); Title 42, U.S.C., 1981, 2000e-2(a), 2000e-2(k), and 2000e-3(a); the Rules of Appellate Procedure, Rules 1 & 2; and; the Federal Rules of Civil Procedure, Rules 9 & 65; and, the Federal Rules of Evidence, Rules 405 & 406.

2. In the case of Sampson v. Murray, 39 L Ed 2d 166; 1974, the United States Supreme Court ruled in part as follows:

> On certiorari, ..., and (3) to obtain preliminary injunctive relief, the plaintiff was required to show irreparable injury, which could not be based merely on her possible temporary loss of earnings or humiliation and damage to her reputation.
>
> 9. The basis of injunctive relief in the federal courts is irreparable harm and inadequacy legal remedies.

3. In the case of Gilbert v. Homar, 138 L Ed 2d 120, 121, 1997; the Supreme Court said:

> 4. Due process is not a technical conception with a fixed content unrelated to time, place, and circumstances; rather, it is flexible and calls for such procedural protections as the particular situation demands.

4. For the case of LaChance v. Erickson, Jr., et al, 139 L Ed 695, 697; 1998, the Supreme Court reasoned as follows:

> 3. Under the Federal Constitution, the core of due process is the right to notice and a meaningful opportunity to be heard.

5. For the case of Sofinet v. I.N.S., 188 F.3d 703, 704, (7th. Cir 1999); the Seventh Court held:

> 9. Injunction
> Although there is a minimum threshold for the likelihood fo success required for the issuance of a preliminary injunction, it is a low one, in that it is enough that the Plaintiff's chances are better than negligiable; that does not mean that applicants for interim injunctive re-

lief with relatively weak cases will always obtain injunctions

6. In the case of Filipovic v. K & R Express Systems, Inc., 176 F.3d 390 (7th Cir. 1999); the Seventh Court held the following:

12. Master and Servant

To demonstrate a prima facie case of retaliation under Title VII, employee must establish that: (1) employee engaged in statutorily protected actitity; (2) employee suffered an adverse action; and (3) there is a causal link between the protected activity and the adverse action. Civil Rights Act of 1964, Sec. 701 et seq., as amended, 42 U.S.-C.A., Se. 2000e et seq.

7. In the Matter of Rhone-Poulenc Roer Pharmaceutals, Inc., 138 F.3d 695 (7th Cir. 1998); the Court determined:

2. Mandamus

Mandamus as mode of correcting rulings by trial judge is available remedy only if judge committed eror so egregious that it can fairly be described as usurative and party

> complaining of error will suffer irreparable harm if it is not corrected.

8. Regarding the case of Mills v. Health Care Serv. Corp., 171 F.3d 450, 451 (7th Cir. 1999); the Court determined:

> 3. Federal Civil Procedure.
>
> Emplolyee in Title VII cases can avert summary judgment either by presenting direct evidence showing discriminatory intent by emploer or its agents, or by offering indirect evidence that they have been discriminated against. Civil Rights Act of 1964, Sec 701 et seq., 42-U.S.C.A., Fed. Rules Civ. Proc. Rule 56(c), 28 U.S.C.A.

B. Argument:

1. Currently, the Seventh Court of Appeals maintains a "Tradition" of denying "All" motions for a preliminary injunction - if such motions are presented in the form of interlocutory relief for employment discrimination cases. In the case of Hetreed v. Allstate Insurance Company, 135 F.3d 1155, 1158 (7th Cir 1998); the Court revealed the following:

> ... Many of our cases have held that interlocutory relief in employment-discrimination cases should be rare. ... Indeed, we have yet to decide a case holding that it is appropriate. The district judge did not abuse his discretion in concluding that this one should not be the first.

2. The above "Tradition" is just another version of "Separate But Equal," which, as we already know, is "Unconstitutional!"

3. The other serious problem, here, is that the Seventh Court's self-imposed "Tradition" does, indeed, prevent the Court from looking at the merits of each case, and "All" such cases - before rejecting it or them.

4. "All" Citizens that are within the jurisdiction of the United States are entitled to due process, and equal protection of the law.

5. The jurisdiction of the Seventh Court is still within the jurisdiction of the United States. To this extent, we must reach and accept the conclusion that different groups that live and work within the jurisdiction fo the Seventh Court must granted the same protection, and the same rights under the "Law," to include members of a "Protected Class," who must, from time to time, engage in "Protected Activity!"

6. In the case of U.S. v. Krilich, 178 F.3d 859, 860, (7th Cir. 1999); the Seventh Court reflected according:

> 3. Courts
>
> District judge was obliged to follow law of the circuit rather than a contrary decision of a district judge elsewhere.

7. Under the jurisdiction of the Seventh Court, the district courts are required to deny all motions for preliminary injunctions, as a form of interlocutory relief - if an employment discrimination case is at issue. The standard here is not the United States Constitution; not the principle of due process and/or equal protection of the law -- the standard, here, is the "Unconstitutional Tradition" of the Seventh Court of Appeals that the district courts must follow!

8. How many "Citizens" have been denied due process and/or equal protection of the law? One thousand? One million? How many?

9. The Plaintiff has been made to suffer an on-the-job, "Irreparable Injury" at the willful hands of the Defendants, and he has been denied, and continues to be denied, due process and equal protection of the law by the lower courts. This is not the "Process" that the Plaintiff is "Due!" All relief has been unlawfully denied!

10. Since the Plaintiff has been denied everything we come to the case of McKennon v. Nashville Banner Pub. Co., 130 L Ed 2d, 853, 1995; where the Supreme Court said:

> Decision: Employee discharged in violation of Age Discrimination in Employment Act of 1967 ... held not barred from all relief because of after-acquired evidence of employee's wrongdoing.

11. Having suffered an on-the-job "Irreparable Injury," the lower courts would not allow the Plaintiff to amend his complaint under authority or circumstance. Therefore, consider the case of Bisciglia v. Kenosha Unified School Dist. No. 1, 45 F.3d 223 (7th Cir. 1995):

> 6. Federal Civil Procedure
>
> Plaintiff's motion for leave to file amended complaint in which plaintiff sought to state a claim under Sec. 1981 based upon certain school board members' alleged discriminatory bias against him based on his Italian ethnic background should have been granted, since it was not clear that plaintiff could state no set of facts upon which relief could be granted under Sec. 1981. 42 U.S.C.A. Sec. 1981.

12. Since the Plaintiff has been denied equal employment opportunity, and a right to a fair judicial procedure, to include the Seventh Court's "Unconstitutional Tradition;" consider the case of Hardlin v. S.C. Johnson & Son, Inc., 167 F.3d 340 (7th Cir. 1999):

> Only disputes that might affect outcome of suit under the Court of Appeals' precedent will properly preclude the entry of summary judgment. Fed. Rules Civ. Proc. Rule 56-(c), 28 U.S.C.A.

13. In closing, the point of all the above that the wrong "Standard" has been used by the lower courts, and the wrong results have been produced. In other words, the Plaintiff has been needlessly denied "Due Process & Equal Protection of the Law." In the case of Harris v. Forklift Systems, Inc., 126 L Ed 2d. 295, 1993; the Supreme Court reasoned as follows:

> Decision: Federal District Court held to have applied incorrect standunder Title VII of Civil Rights Act of 1964 in rejecting female worker's claim alleging abusive work environment because of gender.

14. To do justice to this case, as in every case, the "Right" standard must be freely used!

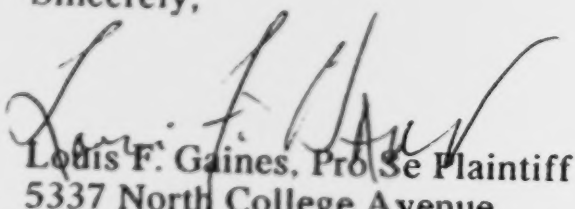
XI. RELIEF

On the authority of the United States Constitution: Article IV, Section 2(1); the Fifth, Eight, Thirteenth, and Fourteenth Amendments; Tile 28, U.S.C., Sections 144, 1254, 1291, 1292; Tile 29, U.S.C., Section 623(a) & 623(d); Tile 42, U.S.C., Sections 1981, 2000e-2(a), 2000e-2(k), and 2000e-3(a); the Rules of Appellate Procedure, Rules 1 & 2; the Federal Rules of Civil Procedure, Rules 9, 56, & 65; and, on the authority of the Federal Rules of Evidence, Rules 405 & 406 - the following "Relief" is requested:

1. Grant all due relief.

2. Stay the proceedings within the lower courts - until a ruling is issued by the Supreme Court of the United States.

Sincerely,



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April 24, 2K